

09-15-03

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SEP 12 2003
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Michaud, Sroka, and Winkelmann

Serial No.: 10/071,533

Filed: February 7, 2002

For: CHEMICAL MECHANICAL MACHINING AND
SURFACE FINISHING

Group Art Unit: 3723

Examiner:

Atty. Dkt. No.: 12350.0010.NPUS01

Confirmation No.: 1312

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RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
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22313-1450.

Signature Amy K. Geyer

In response to the Office Action mailed on August 14, 2003, Applicants request the following:

TRAVERSAL OF RESTRICTION REQUIREMENT:

Applicants traverse the restriction requirement on the grounds that the inventions are not distinct as the Examiner argues, and therefore the Examiner will not be burdened in examining all the claims.

The Examiner argues that the inventions are distinct because they are separately usable. However, a closer inspection of the dependent claims to claim 1 shows that claims 42-44 (Group II) and 45-46 (Group III) are similar to at least 2 claims that depend from claim 1. For instance, Group II claims dealing with gears are similar to claim 28, while Group III claims dealing with a

bearing race are similar to claim 32. There are 2 criteria for a proper restriction requirement: 1) the inventions must be independent or distinct as claimed; and 2) there must be a serious burden on the Examiner. MPEP § 803. In this case, the inventions are not as distinct as the examiner claims, and furthermore, it is respectfully submitted that during the searching of the prior art for the limitations recited in the claims of the provisionally elected Group I, the Examiner will necessarily search the classes that include Groups II and III, as those processes are similar to and at least partially covered by claims that depend from Claim 1 of Group I. Therefore, the Examiner will not be subjected to multiple searches and thus the current situation does not constitute an undue burden for the Examiner. In view of the above arguments, Applicants request that the restriction requirement be reconsidered and withdrawn, and all the claims be examined together on the merits.

PROVISIONAL ELECTION OF GROUP I:

Applicants request that the Examiner conduct the examination of the above referenced application based on Group I.

Applicants request for any extension of time that may be deemed necessary to further the prosecution of this application.

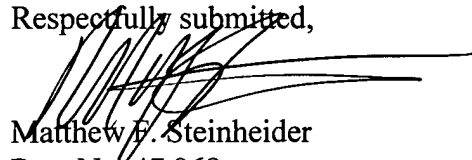
Applicants' representative authorizes the Commissioner to charge any additional fees which may be required, or credit any overpayment, to Deposit Account No. 01-2508, referencing Order No. 12350.0010.NPUS00.

In order to facilitate the resolution of any issues or questions presented by this paper, Applicants respectfully request that the Examiner directly contact the undersigned by phone to further the discussion.

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Applicant: Michaud, et al.
Atty. Ref.: 12350.0010.NPUS00

In order to promote the prosecution of this application, the Examiner is authorized to contact the undersigned by electronic mail. Please address all e-mail to:
steinheidern@howrey.com

Respectfully submitted,



Matthew F. Steinheider
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Tel. 713 787 1516
Date: 9/12/03